HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT APPEAL No. 627 of 2007

Between:

V. Muniratnam

… Appellant

AND

Government of Andhra Pradesh
Revenue (Endowments-III) Department,
Secretariat, Hyderabad, rep., by its
Principal Secretary to Government
& three others.

… Respondents

: JUDGMENT :

Counsel for the appellant : Shri O. Manohar Reddy

Dated: 14th August, 2007

Per G.S. SINGHVI, CJ.

This appeal is directed against order dated 13.06.2007 passed by the learned Single Judge in Writ Petition No.10410 of 1999, whereby he declined to quash the acquisition of the appellant's land.

A perusal of the record shows that in furtherance of sanction accorded by the State Government and proposal made by the Executive Officer, Tirumala Tirupati Devasthanams, the competent authority issued notification dated 16.11.1996 under Section 4(1) of the Land Acquisition Act, 1894 (for short "the Act") for acquisition of different parcels of land including the appellant's land for widening the road. The appellant filed objections against the proposed acquisition, which were duly considered by Special Tahsildar, Land Acquisition (Land Acquisition Officer) Tirupati Urban Development Authority. After considering thereport prepared under section 5-A of the Act, the competent authority issued declaration under Section 6 of the Act, which was published in the locality on 01.05.1997 and in the local newspapers on 24th and 25th May, 1997.

Smt. C. Subbaiamma challenged the acquisition proceedings in Writ Petition No.9834 of 1999. She also applied for interim relief. By an order dated 30th April, 1999, the learned Single Judge directed that status quo be maintained.

The appellant also filed Writ Petition No.10410 of 1999 and prayed for quashing the acquisition proceedings.

The sole point urged by the counsel for the appellant before the learned Single Judge and which has been reiterated before the Division bench is that the acquisition proceedings will be deemed to have been lapsed because the award was not made within two years as per the requirement of Section11-A of the Act.

The learned Single Judge took cognizance of the fact that notification under Section 4(1) was issued on 16.11.1996 and declaration under Section 6 of the Act was published in the locality on 01.05.1997 and in the local newspapers on 24th and 25th May, 1997, the fact that an order of status quo dated 30.04.1999 was passed in Writ Petition No.9834 of 1999 filed by Smt. C.Subbaiamma against Government of Andhra Padesh and others and held that the so-called failure of the Land Acquisition Officer to pass award within two years cannot be made a ground to nullify the acquisition proceedings.

Sri O.Manohar Reddy relied on the judgment of the Supreme Court in **Bailamma and others vs Poornaprajna House Building Cooperative Society and others**[1] and argued that the order of status quo dated 30.04.1999 passed in Writ Petition No.9834 of 1999 cannot justify the inaction of the Land Acquisition Officer to pass award within the statutory period of two years. Sri Reddy further argued that the order of status quo passed in favour of Smt. C.Subbaiamma did not operate as bar to the passing of the award in respect of the remaining land and, therefore, the explanation appended to Section 11-A of the Act could not have been invoked by the learned Single Judge for rejecting the appellant's prayer.

We have considered the submissions of the learned counsel, but have not felt persuaded to agree with him.

Section 11-A of the Act, on which reliance has been placed by Sri Reddy, reads as under:

> "**11-A. Period within which an award shall be made:-** The Collector shall make an award under Section11 within a period of two years from the date of the publication of the declaration and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse:
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> Provided that in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984, the award shall be made within a period of two years from such

commencement.

Explanation:- In computing the period of two years referred to in this Section, the period during which any action or proceeding to be taken in pursuance of the said declaration is stayed by an order of a court, shall be excluded."

The above-reproduced provision has become subject matter of interpretation in several decisions. In **Yusufbhai Noormohmed Nendoliya vs State of Gujarat**[2], the Supreme Court held that the period of injunction obtained by the landholder from the High Court restraining the land acquisition authorities from taking possession of the land is liable to be excluded while computing the period of two years prescribed under Section 11-A.

In **L.N.Venkatesan v. State of Tamilnadu**[3], the Supreme Court held that interim order of the High Court in respect of a portion of the land, which is subject matter of acquisition, disabling the Land Acquisition Officer to proceed in the matter, has to be taken into consideration while computing the period of two years specified in Section 11-A read with the explanation.

In **Municipal Corporation of Delhi v. Lichho Devi**[4], the Supreme Court held that the stay of dispossession of the persons interested tantamounts to stay of further proceedings and the period of operation of such stay has to be excluded in computing the period of two years.

In **Eugenio Misquita v. State of Goa**[5], the Supreme Court held that the period of two years is to be counted from the last publication of the declaration under Section 6 of the Act.

In **Bihar State Housing Board vs State of Bihar**[6], the Supreme Court held as under:

"The crucial words in Section 11-A are "within a period of two years from the date of the publication of the declaration". Section 6(2)

deals with the various modes of publication, as enjoined by the legislature and what is envisaged by the statute is a conjoint publication, by all such methods. Various modes as prescribed in the provision itself are: (a) publication in the Official Gazette, (b) publication in two daily newspapers circulating in the locality in which the land is situate of which at least one shall be in the regional language, and (c) public notice of substance of such declaration at convenient places in the locality. In substance the triumvirate modes are cumulative and inseparable in the sense that unless all the three modes are resorted to and completed, there is no scope for the limitation period of two years beginning to run or for the penal consequences envisaged ensuing therefrom. There is no option left with anyone to give up or waive any one or other of the modes and all such modes have to be strictly resorted to. Sub-section (2) of Section 6 therefore, necessarily, makes it abundantly clear that the last of the dates of the publication and giving of such public notice shall "hereinafter" be referred to as the date of publication of the declaration. Therefore, the expression "date of publication of declaration" appearing in Section 11-A, a stage subsequent to Section 6, answering the stipulation "hereinafter" has to be the last of the dates out of the three modes of publication ordained by the statute. As in the present case the date of publication by local publication was the last at that point of time i.e., 15.03.1991, the award on 25.03.1992 was not beyond the prescribed period of limitation."

In **Bailamma's case (1 supra)**, the Supreme Court approved the view taken by the Patna High Court that the entire period during which the stay granted by the Court remains operative is liable to be excluded and held:

"The submission that the stay order was obtained by the Society itself is of no consequence, having regard to the language of Explanation to Section 11-A of the Act. Section 11-A was enacted with a view to prevent inordinate delay being made by the Land Acquisition Officer in making the award which deprived owners of the enjoyment of the property or to deal with the land whose possession has already been taken. Delay in making the award subjected the owner of the land to untold hardship. The emphasis, therefore, was on the Collector making his award within the period prescribed. However, the legislature was also aware of the reality of the situation and was not oblivious of the fact that in many cases acquisition proceedings were stalled by stay orders obtained from courts of law by interested parties. Once an order of stay is obtained and the Government and

the Collector are prevented from taking any further action pursuant to the declaration, they cannot be faulted for the delay, and therefore, the period during which the order of stay operates must be excluded. In a sense, operation of the order of stay provides a justification for the delay in taking further steps in the acquisition proceedings for which the authorities are not to blame. It, therefore, became imperative that in computing the period of two years, the period during which an order or stay operated, with prevented the authorities from taking any action or proceeding in pursuance of the declaration, must be excluded. If such a provision was not made, an acquisition proceeding could be easily defeated by obtaining an order of stay and prolonging the litigation thereafter. Explanation to Section 11-A was meant to deal with situations of this kind. The Explanation is in the widest possible terms which do not limit its operation to cases where an order of stay is obtained by a landowner alone. One can conceive of cases where apart from landowners others may be interested in stalling the land acquisition proceeding. It may be that on account of development of that area some persons in the vicinity may be adversely affected, or it may be for any other reason that persons in the locality are adversely affected by the project for which acquisition is being made. Therefore, the exclusion of the period during which the order of stay operated is not dependant upon the party obtaining such an order. An order passed by the court must be obeyed by all concerned. In the instant case the Society moved the High Court and obtained an order of stay. By virtue of the stay order the operation of the declaration made under Section 6 of the Act was itself stayed, that is to say, as if no declaration has been made under Section 6 of the Act. Such being the position no steps required to be taken under the Act after publication of the declaration under Section 6 could be taken either by the Collector or by the Government. In effect, the order operated in such a manner that the Government was prevented from granting approval to the award even if it so desired, nor could it refuse approval during the period the order of stay operated. Therefore, Explanation to Section 11-A came into operation and in accordance therewith the period during which the order of stay operated must be excluded from the total time taken to make the award. It is not possible to add words in the Explanation by reading into it a provision that gives to the Explanation a narrower operation than what was intended for it by the legislature, so as to apply only to cases where an order of injunction is obtained by the landowner and not by anyone else."

The propositions of law which could be culled out from the aforementioned judgments are as follows:

1) the period of limitation prescribed under Section 11-A of the Act commences from the date of the last publication of declaration under Section 6 of the Act,

2) the period during which stay order of the Court operates qua the acquisition proceedings is liable to be excluded while computing the limitation of two years,

3) the stay of dispossession of interested persons tantamounts to stay of further proceedings and the period during which such stay remains operative is to be excluded from the statutory period specified under Section 11-A, and

4) stay granted in favour of the one out of many would operate qua the entire proceedings and the same is excludable from the period of limitation.

In view of the above stated legal position and the factual matrix of this case, we are convinced that the learned Single Judge did not commit any error by declining to quash the acquisition proceedings on the ground that the award has not been passed within two years from the publication of declaration under Section 6 of the Act.

Before concluding, we consider it necessary to observe that the learned counsel did not argue other points taken in the writ petition. We may also mention that if the appellants had challenged the acquisition proceedings on the ground other than the bar of limitation enshrined in Section 11-A of the Act, the writ petition would have been dismissed on the ground of unexplained delay of two years (see **Star Wire (India) Ltd. Vs State of Haryana and others**[7])

In the result, the appeal is dismissed.

As a sequel to dismissal of the writ appeal, WAMP.No.1269 of 2007 filed by the appellant for interim relief is also dismissed.

G.S. SINGHVI, CJ.

C.V. NAGARJUNA REDDY, J.

Date: 14.08.2007
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[1] (2006) 2 SCC 416
[2] (1991) 4 SCC 531
[3] (1997) 5 SCC 309
[4] (1997) 7 SCC 430
[5] (1997) 8 SCC 47
[6] (2003) 10 SCC 1
[7] (1996) 11 SCC 698